

201 KAR 11:440. Personal assistant duties.

RELATES TO: KRS 324.010(4), 324.030(6)

STATUTORY AUTHORITY: KRS 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.010(4) indicates a principal broker is the single broker responsible for the operation of the company with which he or she is associated. KRS 324.030(6) provides that a nonlicensed person shall be exempt from KRS 324.020 if the nonlicensed person is engaged in specified activities under the supervision of a licensed real estate broker. KRS 324.282 authorizes the Real Estate Commission to promulgate administrative regulations necessary to implement KRS Chapter 324. This administrative regulation establishes requirements for a principal broker to exercise responsibility for the operations of a company with regard to nonlicensed personnel activity.

Section 1. A nonlicensed personal assistant, office worker, or clerical worker shall not:

- (1) Negotiate terms of a real estate transaction or real estate brokerage agreement;
- (2) Complete offers or contracts relative to a real estate transaction;
- (3) Disclose information that is available to a real estate licensee but is not available to the general public;
- (4) Attend a real estate closing except to assist a licensee present at the closing;
- (5) Access information which requires membership in an industry trade group if the supervising licensee is not a member of the industry trade group;
- (6) Write or place advertisements without review by a licensee;
- (7) Express material opinions on any aspect of a real estate transaction to anyone other than the supervising licensee;
- (8) Interpret real estate contractual terminology for others;
- (9) Represent to others that he has a real estate license; or
- (10) Perform any activity which requires a real estate license.

Section 2. A nonlicensed personal assistant, office worker, or clerical worker may perform the following tasks:

- (1) Distribute literature, serve refreshments, greet guests, and procure guest signatures on a sign-in book at an open-house, without a supervising licensee present at the open house if:
 - (a) The seller or lessor provides written consent for the assistant to serve in this capacity; and
 - (b) The supervising licensee directs the assistant to serve in this capacity;
- (2) Provide the following general public information to others pursuant to KRS 324.030(6):
 - (a) Whether real estate is listed with the real estate company;
 - (b) Whether real estate is under contract with the company;
 - (c) Whether a real estate transaction has closed;
 - (d) The listing price of the real estate;
 - (e) Other information about the real estate if:
 1. The information is provided in writing;
 2. Disclosure is approved by the supervising licensee; and
 3. Disclosure does not violate the licensee's fiduciary duties to his client;
- (3) Appear in advertisements and have his or her name appear in advertisements if the advertisement does not indicate or imply the assistant has a real estate license;
- (4) Contact others to set appointments on behalf of the supervising licensee;
- (5) Receive confidential information from a consumer relative to a real estate transaction if the information is communicated only to the supervising licensee;

(6) Copy a key related to a real estate transaction at the direction of the supervising licensee; or

(7) Unlock real estate for any purpose relative to the real estate transaction if:

(a) The supervising licensee receives the consent of the owner or lessor;

(b) The assistant answers no questions about the real estate other than as specifically allowed by this administrative regulation or statute; and

(c) The assistant does not show the real estate to a consumer.

Section 3. Supervision of a nonlicensed personal assistant, office worker, or clerical worker shall require:

(1) A principal broker to assign supervision duties for each assistant to at least one (1) licensee, which may be the principal broker, of the company;

(2) The principal broker to require all assistants working for a licensee of the company to be informed of the requirements of this administrative regulation and the provisions of KRS 324.030;

(3) A principal broker to establish a policy by which a supervising licensee provides training for assistants in a manner reasonably adequate to ensure compliance with this administrative regulation;

(4) A supervising licensee to provide reasonable supervision of assistants in a manner which shall ensure compliance with this administrative regulation; and

(5) A supervising licensee to be reasonably accessible to assistants in a manner which allows the assistant to contact and locate the licensee concerning pending transactions. (27 Ky.R. 2005; Am. 2853; 3238; eff. 6-8-2001.)